IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

OP.No. 18947 of 2001(E)

PETITIONER:

THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK PRODUCERS UNION LTD., KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM, REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.B.S.KRISHNAN (SR.)
SRI.K.ANAND (A.201)

RESPONDENTS:
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1. **A.P.RENJITHKUMAR, S/O.APPUKUTTAN NAIR, SREEVIHAR, KUMARAPURAM, THIRUVANANTHAPURAM – 695 011.**

2. **REGISTRAR OF DAIRY CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.**

3. **KERALA CO-OPERATIVE TRIBUNAL, THIRUVANANTHAPURAM.**

BY ADV. SRI.G.S.REGHUNATH for R1
BY GOVERNMENT PLEADER SRI. P.N. SANTHOSH for R2 & R3

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.30547/2001 IN O.P.NO.18947/2001 E

DISMISSED

2/11/2007 **SD/- THOTTATHIL B.RADHAKRISHNAN,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE AWARD DTD. 10/12/1997 IN A.R.C.NO.9/1995.**

EXT.P2: **COPY OF THE APPEAL DTD. 28/05/1998 FILED BY THE PETITIONER.**

EXT.P3: **COPY OF THE JUDGMENT DTD. 15/03/2001 IN A.P.NO.73/1998.**

/TRUE COPY/

P.S.TO JUDGE

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.18947 of 2001-E

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Dated this the 2nd day of November, 2007.

JUDGMENT

1. Proceedings were initiated against the writ petitioner by arbitration, on the request of the first respondent, for an award for certain amounts on grounds referable to a contract between the petitioner and the first respondent relating to procurement of milk from the farmers for the purpose of the writ petitioner. It appears that appropriate documents were not placed by the writ petitioner before the Arbitrator in support of its claim that the first respondent was not entitled to the amount claimed. The terms and conditions of the agreement between the parties provided for certain recoveries etc. on the basis of the quality of the materials that ultimately reached

the petitioner. The Tribunal confirmed the award stating that materials were not placed.

2.However, going by the endorsements on this writ petition, it is seen that on 10-3-2006, it was directed by the learned Judge, who considered the matter on that day, that the petitioner will make available the entire records which were sought to be relied on before the Arbitrator. Learned counsel for the writ petitioner has made available those documents today.

3.With the availability of the records and going by the fact that public funds are involved in the management of the writ petitioner and because, the award is also one which carries interest at 12% per annum, I am inclined to grant the petitioner a further opportunity to produce materials before the Arbitrator so that the issues could be decided on merits.

4.To aid the aforesaid purpose, the award and the

impugned decisions are set aside directing the parties to appear before the second respondent on the 29th of November, 2007. The said Officer will make every endeavour to dispose of the matter finally, within an outer limit of six months from the date of receipt of a copy of this judgment. The petitioner and the first respondent will be given opportunity to produce further materials on record. Having regard to the facts of the case, the aforesaid directions will be subject to the condition of the petitioner paying the first respondent an amount of Rs.5,000/- as costs.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.18947 of 2001-E

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JUDGMENT

Dated: 2nd November, 2007.